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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,181	10/13/2005	Wolfgang Heukamp	MY-30PCT	2224
40570	7590	02/07/2008		
FRIEDRICH KUEFFNER 317 MADISON AVENUE, SUITE 910 NEW YORK, NY 10017			EXAMINER LE, HUYEN D	
			ART UNIT 3751	PAPER NUMBER
			MAIL DATE 02/07/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/553,181

Applicant(s)

HEUKAMP, WOLFGANG

Examiner

Huyen Le

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3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-9 and 15 is/are rejected.
- 7) ☒ Claim(s) 10-14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The indicated allowability of claims 2-9 and 15 is withdrawn in view of the newly discovered reference(s). Therefore, the finality of the last Office action dated 10/12/2007 is withdrawn. Rejections based on the newly cited reference(s) follow.

Claim Objections

2. Claim 15 is objected to because of the following informalities: it depends from a canceled claim. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lorscheidt (4,781,483) in views of Moss (978,189) and Madaus et al (4,979,840).

The Lorscheidt reference discloses a stick dispenser comprising a stick-shaped housing 2 with an upper dispensing outlet 4, a closure cap 11 that seals the dispensing outlet 4 airtight by means of a sealing lip 16, and a feeding plunger 5 able to move axially inside the housing 2, and the closure cap 11 is designed with a double wall with an inner cap 17 that can be axially displaced relative to the closure cap 11.

Although Lorscheidt does not a lock mechanism for allowing the plunger moving in one direction, attention is directed to the Moss reference which teaches another stick

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dispenser comprising projections 5 around the plunger 6 and serrations 4 around the housing 1 of which allow the plunger 6 to move only one direction. Madaus teaches a cap comprising an axially movable inner cap 14 and a spring 16 for urging the inner cap 14 toward the reservoir 3 to seal the applicator tip from dryness.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the Lorscheidt housing 2 and plunger 5 with serrations and projections as taught by Moss for allowing the plunger 5 to only move only one direction toward the outlet and further to provide the Lorscheidt inner cap with a spring as taught by Madaus et al for urging the inner cap toward the housing to seal the product mass inside the housing from dryness.

5. Claims 2 and 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lorscheidt in views of Moss, Madaus et al and further in view of Cardia (5,445,465).

Although Lorscheidt does not disclose the housing 2 having a double-walled design, attention is directed to the Cardia reference which teaches a solid stick dispenser having a double-walled design housing 1 and 6 (Fig. 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the housing 2 of Lorscheidt to have double wall design as taught by the DE3118893 reference wherein doing so would be an obvious design choice.

Regarding claims 4 and 5, the modified plunger 5 of Lorscheidt includes projections constituting a retaining spring that catches on the serrated inner wall of the housing.

6. Claim 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lorscheidt in views of Moss, Madaus et al, Gentile and further in view of Lorscheidt (4,139,311).

although Lorscheidt does not disclose an outwardly projecting sealing lip provided, attention is directed to the Lorscheidt '311 reference which teaches a sealing 24 provided to seal against the inner surface of cap to draw the stick upwardly from the container.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provided the Lorscheidt dispenser with a sealing as taught by Lorscheidt '311 to seal against the inner surface of cap to generate negative pressure in order to advance the stick product out of the housing.

Allowable Subject Matter

7. Claims 10-14 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

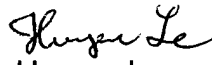
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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 571-272-4890. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Huyen Le
Primary Examiner
Art Unit 3751

HL